

- (1) The credible evidence fails to establish that claimant experienced an accidental injury on August 3, 1993. Claimant's description of the facts surrounding his accident is highly suspicious. The testimony of Chet Witham, a disinterested party, is persuasive that claimant advised him only minutes before the alleged accident that claimant was unhappy working for the respondent and knew ways to get money out of a company without working.
- (2) Claimant's description of the accident is not credible. In order for the accident to have occurred as claimant describes, the claimant would have had to either flip or laterally roll 180 degrees in the air to land upon his back, while slowing the fall of the sofa loveseat to cause it to land on him. When Mr. Witham came to claimant's aid shortly after the alleged incident, he found claimant lying on the ground twitching his arms and legs. Contrary to claimant's testimony, Mr. Witham states that the loveseat was not on claimant, but was setting to the side. There was no damage to the loveseat.
- (3) The medical information provided does not assist claimant in his burden of proof. The tests provided at St. Francis Hospital were normal. There is nothing objective in the record to substantiate claimant's complaints. On the other hand, the medical records indicate that claimant was not cooperative in submitting himself for examination. Regarding the twitching and jerking, there is no medical evidence to explain that phenomenon.

(4) The record is laced with inconsistencies between claimant's testimony and others. The Appeals Board finds claimant testimony is untrustworthy and that he has failed to establish a compensable, accidental injury.

WHEREFORE, it is the finding, decision and order of the Appeals Board for preliminary hearing purposes that claimant has not met his burden of establishing a compensable, accidental injury on August 3, 1993, and that the Order of Administrative Law Judge John D. Clark, dated October 26, 1993, is reversed.
IT IS SO ORDERED.

Dated this ____ day of December, 1993.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: John Wesley Gunter, 516 N. Cleveland, #B, Wichita, Kansas 67214
Dana D. Preheim, 200 West Douglas, 6th Floor, Wichita, Kansas 67202
John D. Clark, Administrative Law Judge
George Gomez, Director